CITY COUNCIL MEETING CITY COUNCIL CHAMBERS 400 EAST MILITARY, FREMONT NEBRASKA January 8, 2019 7:00 p.m.

After the Pledge of Allegiance, the Mayor called the meeting of the City Council to order and stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas. Roll call showed Council Members McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns and Legband present. 8 Council Members present.

Council Member Yerger raised a point of information to inquire about the appropriateness of items #8, #19, #20, #21 and #22 and have the items removed from the agenda due to open meetings rules violations as provided in Municipal Code section 2-110 through 2-112. Council Member Jacobus moved, seconded by Council Member Kuhns to receive a copy of the pertinent sections of the Municipal Code from Council Member Yerger. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Yerger moved, seconded by Council Member Jacobus to remove items #8, #19, #20, #21 and #22 and refer them back to the UDC Committee. Council Member Yerger amended his motion at the request of legal counsel to continue to a future meeting until appropriate time for referral so that they could have time to provide a report on any open public meetings violations. Council Member Jacobus seconded the revised motion. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

4.Resolution 2019-001 Poultry Complex Preliminary Plat by Justin Stark on behalf of PCCW, Inc. owners of property generally located north of Hills Farm Road, West of Old Hwy 275, East of S. Main Street (in Inglewood) and south of Cloverly Road. Council Member Kuhns moved, seconded by Council Member Jensen to amend the Resolution to correct the clerical error with number of acres from 69.561 acres to 435.181 acres. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member McClain moved, seconded by Council Member Legband to approve Resolution 2019-001 the preliminary plat on behalf of PCCW. Ayes: McClain, Legband, Kuhns, Jensen, Getzschman. Nays: Ellis, Jacobus, Bechtel, Yerger. Motion carried.

5.Resolution 2019-002 Poultry Complex Final Plat by Justin Stark on behalf of PCCW, Inc. on property generally located north of Hills Farm Road, West of Old Hwy 275, East of S. Main Street (in Inglewood) and south of Cloverly Road. Council Member Legband moved, seconded by Council Member Jacobus to amend the Resolution to correct the number of acres from 69.561 acres to 435.181 acres. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Council Member McClain moved, seconded by Council Member Jacobus to continue the public hearing and Resolution and receive information regarding major changes between the site plan to the preliminary plat or final plat. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband. Nay: Kuhns. Motion carried.

6. Ordinance 5488 request for Voluntary Annexation of property by Bruce Coffey on behalf of Costco Wholesale / PCCW, Inc., owners of a tract of land southwest of the intersection of Cloverly Rd and Downing Street. Council Member Jacobus moved, seconded by Council Member Legband to strike language from Section 1 of the Ordinance referring to Morningside Crossing. Ayes: McClain, Ellis, Kuhns,

Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member Kuhns moved, seconded by Council Member McClain to introduce the Ordinance. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Jacobus, Legband. Nay: Yerger. Motion carried. City Clerk provided first reading.

- 7. Ordinance 5489 request for Voluntary Annexation of property by Bruce Coffey on behalf of Costco Wholesale / PCCW, Inc., owners of a tract of land being a part of Lot 1, East Inglewood Subdivision. Council Member Jacobus moved, seconded by Council Member Legband to strike language from Section 1 of the Ordinance referring to Morningside Crossing. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member Jensen moved, seconded by Council Member McClain to introduce the Ordinance as amended. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Jacobus, Legband. Nay: Yerger. Motion carried. City Clerk provided first reading.
- 8. Ordinance 5490 Amendments regarding expansion of uses on non-standard lots, an amendment to Chapter 11 of the Fremont Municipal Code pertaining to zoning, subdivision and site development regulations. Council Member Yerger moved, seconded by Council Member Jacobus to continue the item. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 9. Ordinance 5491 request for approval of 3rd amendment to the Gallery 23 PD Planned Development to change the height for commercial zoning from 45′ to 60′ by Brad Marshall on behalf of Jeremy Guenthner, owner of land generally located at the North of County Road U and South of Lincoln Highway, just west of Farmfield Road. Council Member Jacobus moved, seconded by Council Member Legband to amend the Ordinance to provide that Lot 2 of Gallery 23 the East Edition regarding only the RTG building to not exceed 60 feet in height. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member Jensen moved, seconded by Council Member Jacobus to hold first reading of the amended Ordinance. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. The City Clerk provided first reading.

Moved by Council Member Yerger seconded by Council Member Jacobus to approve items thirteen through seventeen of the consent agenda. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried.

- 13. Resolution 2019-004 authorizing staff to apply for a grant from the Civic and Community Center Financing Fund for renovation of the City Auditorium
- 14. Resolution 2019-005 authorizing purchase of a truck with dump body and snow plow through the National Joint Power Alliance (NJPA Sourcewell)
- 15. Resolution 2019-006 authorizing an agreement with Humanities Nebraska for Keene Memorial Library to provide the Prime Time Family Reading Time program in 2019 for two sessions
- 16. Motion to appoint member to the Local Option Review Team
- 17. Motion to approve extension of Worker's Compensation Excess coverage with Safety National

- 10. Motion to approve December 21, 2018 through January 8, 2019 claims and authorize checks to be drawn on the proper accounts. Council Member McClain moved, seconded by Council Member Jensen to approve December 21, 2018 through January 8, 2019 claims and authorize checks to be drawn on the proper accounts. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried.
- 11. Receive Report of the Treasury. Council Member McClain moved, seconded by Council Member Yerger to receive the report of the treasury. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried.
- 12. Dispense with and approve December 11, 2018 and December 20, 2018 minutes. Council Member Jensen moved, seconded by Council Member Legband to approve the December 11, 2018 and December 20, 2018 minutes. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried.
- 18. Resolution 2019-007 clarifying legal description referenced in purchase agreements for the sale and conveyance of real estate owned by the City of Fremont to the Dodge County Humane Society. Council Member Jacobus moved, seconded by Council Member Yerger to continue the item and get clarification on approval of purchase and potential violation of the Open Meetings Act. Ayes: Ellis, Bechtel, Yerger, Jensen, Jacobus. Nays: McClain, Kuhns, Legband. Motion carried.
- 19. Ordinance 5483 Unified Development Code amendment regarding the size and distance into right-of-way of projecting signs. Council Member Yerger moved, seconded by Council Member Jacobus to continue the item. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 20. Ordinance 5484 Unified Development Code amendment to updated definition of required yards to clarify requirements for landscaping. Council Member Yerger moved, seconded by Council Member Jacobus to continue the item. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 21. Ordinance 5485 Unified Development Code amendment to clarify when more than one use is allowed on a lot. Council Member Yerger moved, seconded by Council Member Jacobus to continue the item. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 22. Ordinance 5486 Unified Development Code amendment to screening requirements for service stations to type B unless abutting residential properties. Council Member Yerger moved, seconded by Council Member Jacobus to continue the item. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 23. Ordinance 5487 second amendment to Gallery 23 Planned Unit Development to change the number lots, lot areas, widths and setbacks to allow for two story townhouse development at the north end of the development. Council Member Jacobus moved, seconded by Council Member Kuhns to approve final reading of the Ordinance. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. City Clerk provided final reading. Mayor Getzschman called for a final vote on the Ordinance. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Ordinance 5487 approved.

- 24. Resolution 2019-008 to authorize staff to sign contract with KPE, Inc. for engineering and construction phase services for the removal of architectural barriers at the Fremont Municipal Building. Council Member Yerger moved, seconded by Council Member Jensen to approve Resolution 2019-008. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried.
- 25. The Mayor opened the floor for nominations for Council President. Council Member Legband nominated Council Member McClain. Council Member Jensen nominated Council Member Jacobus. The Mayor closed the nominations for voting. Ballot #1 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #2 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #3 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #4 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #5 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #6 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #7 resulted in a tie 4 votes for Council Member Jacobus and 4 votes for Council Member McClain. Ballot #8 resulted in electing Council Member Jacobus as Council President for a two year term ending December 2020; the results were 5 votes for Council Member Jacobus and 3 votes for Council Member McClain.
- 26. Council Member Yerger item Resolution(s) Time Warner Cable Midwest LLC/Charter (known as Spectrum) Franchise agreement/ordinance request to discuss records/review records. Council Member Jacobus moved, seconded by Council Member McClain to receive a copy of the Franchise Agreement. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Council Member McClain moved, Seconded by Council Member Jensen to receive into the record a document titled "Spectrum 2018 Annual Customer Notification". Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Council Member Yerger moved, seconded by Council Member Jacobus to withdraw resolution asking the Company to attend a meeting to take questions. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Council Member Yerger made a motion seconded by Council Member Jacobus to amend the Resolution to require the Mayor to appoint and the City Council to approve a committee and continue with the remaining language in the Resolution. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns. Nay: Legband. Motion carried. Council Member Yerger moved seconded by Council Member Jensen to withdraw the previously approved amendment and authorize the Mayor to appoint a couple duly authorized representatives to review records. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns. Nay: Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member Yerger to direct the Mayor to authorize one or two individuals to examine records pursuant to the franchise agreement. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns. Nay: Legband. Motion carried.
- 27. Council Member Jacobus item update on City Attorney factual investigation and legal analysis of unpaid earnest money/escrow and other expenses and fees resulting from purchase agreement signed by RTG Medical Inc. The City Attorney provided an update. No action was taken by the City Council.
- 28. Ordinance 5492 vacating Cloverly Road from the new alignment of Cloverly Road to the new alignment of Downing Street. Council Member Jacobus made a motion to amend the Ordinance to include a contingency that easements are acquired prior to final reading of the Ordinance. The motion was withdrawn by Council Member Jacobus. Council Member Yerger moved, seconded by Council

Member Jacobus to introduce the Ordinance. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. City Clerk provided first reading of the Ordinance.

29. Executive Session to discuss threatened or potential litigation. Moved by Council Member Jensen, seconded by Council Member Jacobus to go into executive session for the purpose of discussing strategy session with regard to threatened or potential litigation and for the further reason that the executive session is necessary for the protection of the public interest. The Mayor stated a motion had been made and seconded to go into executive session for the purpose of discussing strategy session with regard to threatened or potential litigation and for the further reason that the executive session is necessary for the protection of the public interest and asked for discussion. There being none, the Mayor stated the pending motion was to go into executive session for the purpose of discussing strategy session with regard to threatened or potential litigation and for the further reason that the executive session is necessary for the protection of the public interest. Ayes: McClain, Ellis, Jensen, Bechtel, Yerger, Jacobus. Kuhns, Legband. Motion carried. The Mayor stated that there was a motion to go into executive session for the purpose of discussing strategy session with regard to threatened or potential litigation and for the further reason that the executive session is necessary for the protection of the public interest had been approved. Discussion will be limited to a strategy session with regard to threatened or potential litigation. No official actions or votes will be taken during the executive session. The Mayor stated that the executive session should include the City Attorney, City Administrator, and Assistant City Administrator. Time in: 10:20 p.m.

Moved by Council Member Jacobus, seconded by Council Member McClain to come out of executive session where no official actions or votes were taken. Ayes: McClain, Ellis, Jacobus, Jensen, Bechtel, Yerger, Legband, Kuhns. Motion carried. Time out: 10:29 p.m.

30. Moved by Council Member Jacobus seconded by Council Member Legband to adjourn the meeting. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried. Meeting adjourned at 10:30 p.m.

I, Tyler Ficken, the undersigned City Clerk, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such agenda items were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by the members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that this meeting was preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, were displayed in the Municipal Building and distributed to the Mayor and Council on January 4, 2019 and is open to the public; that all news media requesting notification concerning meeting and the subjects to be discussed at said meeting and that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held.

APPROVED AND ACCEPTED THIS 29TH DAY OF JANUARY AS THE OFFICIAL COPY OF THE FREMONT, NEBRASKA CITY COUNCIL MINUTES FOR JANUARY 8, 2019.

Tyler Ficken, City Clerk

Scott Getzschman, Mayor